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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,847	10/30/2003	Arkady Glukhovskiy	P-5476-US	8263

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NEW YORK, NY 10036

EXAMINER
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SMITH, PHILIP ROBERT

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/695,847

Applicant(s)

GLUKHOVSKY ET AL.

Examiner

Philip R. Smith

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 9, 11, 22-24, 26, 31 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 10, 12-21, 25, 27-30 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

- [01] A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/14/2006 has been entered.

### **Claim Rejections - 35 USC § 102**

- [02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [03] Claims 1, 2, 8, 10, 12-17, 20, 25 & 27-30 are rejected under 35 U.S.C. 102(a) as being unpatentable over Gazdzinski (2001/0051766).
- [04] With regard to claim 1: Gazdzinski discloses a self-contained in-vivo device ("probe 300," [0171]) comprising:
- [04a] an internal battery ("a battery may be used [within the probe 300]," [0155]);
  - [04b] a wireless transmitting device ("inductive data terminals 532, 540" [0171]);  
and
  - [04c] an operation blocker ("microcontroller 520," [0171]) disposed therein,  
wherein said operation blocker is for preventing activation of said device ("probe is deactivated," [0208]) after a specified condition is satisfied

("[w]hen all data acquisition is complete," [0208]).

[05] With regard to claim 2: The deactivation taught by Gazdzinski is permanent.

[06] With regard to claim 8: Gazdzinski discloses a timer ("clock 524," [0159]).

[07] With regard to claim 10: The device disclosed by Gazdzinski is activated prior to deactivation.

[08] With regard to claim 12: The "microcontroller 520" disclosed by Gazdzinski remains activated after replacement of a battery.

[09] With regard to claim 13: Gazdzinski's device is autonomous.

[10] With regard to claim 14: As noted above, Gazdzinski discloses an in-vivo sensing device ("300") comprising a non-volatile circuit ("520") capable of preventing reactivation of said device after said device has been used for a medical exam ("[w]hen all data acquisition is complete...probe is deactivated," as noted above).

[11] With regard to claim 15: The "microcontroller" disclosed by Gazdzinski comprises "internal memory" ([0156]).

[12] With regard to claim 16: Gazdzinski discloses an operation blocker configured for preventing reactivation of said device after a specified condition has been satisfied, as noted above.

[13] With regard to claim 17: As noted above, Gazdzinski discloses a method for preventing reuse of an in-vivo device comprising activating a permanent operation blocker in said device upon satisfaction of a specified condition.

- [14] With regard to claim 20: As noted above, Gazdzinski discloses a method for blocking activation of a self-contained in vivo device comprising a wireless transmitting device therein, and configuring a circuit ("520") to block activation of the in-vivo device upon the satisfaction of a pre-defined condition.
- [15] With regard to claim 25: Gazdzinski discloses configuring said circuit ("520") to permit continued operation of said device after the satisfaction of a predefined condition ("tracked and subsequently activated when the desired probe position is achieved," [0205]).
- [16] With regard to claim 27: As noted above, Gazdzinski discloses a method of operating an autonomous in-vivo sensing device, having a wireless transmitting device therein, the method comprising permanently preventing the operation of said autonomous in-vivo sensing device upon the satisfaction of a specified condition.
- [17] With regard to claim 28: The operation of said autonomous in-vivo device includes imaging ("CCD array 402," [0153]).
- [18] With regard to claim 29: As noted above, Gazdzinski discloses configuring a circuit ("520") to block activation of at least a portion of the device.
- [19] With regard to claim 30: As noted above, Gazdzinski discloses a memory which is burned in association with its inherent function.

**Additional Claim Rejections - 35 USC § 102**

- [20] Claims 17 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kane

(6,204,746).

- [21] Kane discloses a method for preventing use of an in vivo device comprising activating a permanent operation blocker ("thermal overload mechanism 10," 2/28) in said device upon satisfaction of a specified condition ("designed to melt or break at temperatures exceeding approximately 210.degree. F., i.e. at temperatures reached during power cross occurrences," 2/54-55), wherein activating said operation blocker comprises melting of an insulation ("spacer element 20, preferably constructed of a nonelectrically conducting or insulating material such as plastic," 2/43-45).

#### **Claim Rejections - 35 USC § 103**

- [22] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [23] Claims 3-4, 18, 21 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Denen.
- [24] Gazdzinski does not disclose a non-volatile memory composing the operation blocker ("520") configured for assuming a designated state upon satisfaction of a specified condition, nor that said specified condition is a total elapsed time of operation of said device.
- [25] Denen discloses an operation blocker (comprising "control module 36" & "non-volatile memory 30" for burning a "utilization history," 10/46-57) configured for assuming a designated state (11/22-27) upon satisfaction of a specified condition

("maximum equipment actuation time," 10/42-45).

- [26] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that the "microcontroller 520" disclosed by Gazdzinski be modified to include the "non-volatile memory 30" for burning a "utilization history," as disclosed by Denen. A skilled artisan would be motivated to do so in order "to disable the equipment when a manufacturer specified utilization limit has been exceeded" (4/45-46), thereby eliminating liability for use of flawed or faulty equipment.

#### **Additional Claim Rejections - 35 USC § 103**

- [27] Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Kane.
- [28] Gazdzinski discloses the deactivation of a probe via a microcontroller, but does not disclose that the deactivation comprises melting of an insulation.
- [29] Kane discloses a mechanism which includes a "thin breachable or breakable membrane 38... preferably formed of... plastic... designed to melt or break" (2/49-54). In reduction to practice at the time of the invention, it would have been obvious to a person of ordinary skill in the art that the invention disclosed by Kane be used as a means of deactivating the probe 300. A skilled artisan would be motivated to do so in order to

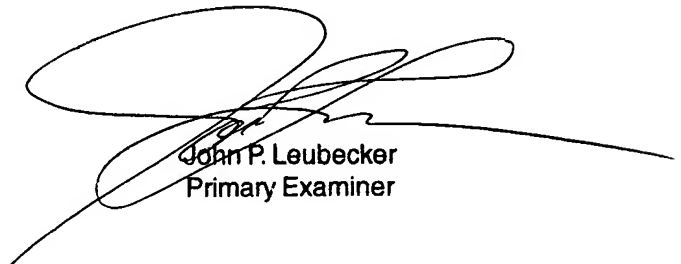
#### **Response to Arguments**

- [30] Applicant's arguments with respect to the claims has been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

- [31] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [32] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [33] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

prs



John P. Leubecker  
Primary Examiner